



[Billing Code 7709-02-P]

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Annual Reporting (Form 5500 Series)

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request extension of OMB approval, with modifications.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval (with modifications), under the Paperwork Reduction Act of 1995, of its collection of information for Annual Reporting under OMB control number 1212-0057, which expires on January 31, 2022. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments must be submitted by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments may be submitted by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- E-mail: paperwork.comments@pbgc.gov. Refer to Annual Reporting (Form 5500 Series) in the subject line.
- Mail or Hand Delivery: *Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026.*

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to the Annual Reporting (Form 5500 Series). All comments

received will be posted without change to PBGC's website, www.pbgc.gov, including any personal information provided. Copies of the collection of information may be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026, or calling 202-326-4040 during normal business hours. TTY users may call the Federal relay service toll-free at 800-877-8339 and ask to be connected to 202-326-4040.

FOR FURTHER INFORMATION CONTACT: Karen Levin (levin.karen@pbgc.gov), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4400, extension 3559. TTY users may call the Federal relay service toll-free at 800-877-8339 and ask to be connected to 202-326-4400, extension 3559.

SUPPLEMENTARY INFORMATION: Annual reporting to the Internal Revenue Service (IRS), the Employee Benefits Security Administration (EBSA), and the Pension Benefit Guaranty Corporation (PBGC) is required by law for most employee benefit plans. For example, section 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) requires annual reporting to PBGC for pension plans covered by title IV of ERISA. To accommodate these filing requirements, IRS, EBSA, and PBGC have jointly promulgated the Form 5500 Series, which includes the Form 5500 Annual Return/Report of Employee Benefit Plan and the Form 5500-SF Short Form Annual Return/Report of Small Employee Benefit Plan.

The collection of information has been approved by OMB under control number 1212-0057 through January 31, 2022. PBGC intends to request that OMB extend its approval, with modifications, for three years. An agency may not conduct or sponsor, and a person is not

required to respond to a collection of information unless it displays a currently valid OMB control number.

PBGC is proposing modifications to the 2020 Schedule R (Retirement Plan Information) and its related instructions. The proposed modifications to Schedule R affect multiemployer defined benefit plans covered by Title IV of ERISA. PBGC is also proposing minor modifications to the Form 5500 Series to improve the accuracy of reported information.

Section 103(f)(2)(C) of ERISA requires that a multiemployer defined benefit plan include in its annual report, “[t]he number of participants under the plan on whose behalf no contributions were made by an employer as an employer of the participant for such plan year and for each of the 2 preceding plan years.” Line 14a of Schedule R requires the plan to report the participant counts for the current plan year’s filing. Lines 14b and 14c require the plan to report the participant counts for the previous two respective plan years. PBGC has found a majority of plans that are required to report do not provide accurate information on line 14 of Schedule R.

The current instructions for line 14 require multiemployer plans to count inactive participants using the last contributing employer counting method. Under the last contributing employer method, a plan counts only those participants whose last contributing employer withdrew from the plan by the beginning of the relevant plan year for which the Form 5500 relates. The plan does not count any participants whose employers had not withdrawn from the plan, even if, in the relevant year, no contributions were made by the employer on behalf of those participants.

PBGC is proposing to modify Schedule R to provide multiemployer plans with a choice of the last contributing employer counting method and two proposed counting methods: the alternative method and the approximation method. PBGC anticipates that providing plans with

three alternative counting methods will allow each plan to choose the counting method that will be most accurate and least burdensome for the plan to count its inactive participants.

Under the first proposed counting method, the alternative method, a plan would count only those participants whose last contributing employer and all prior contributing employers had withdrawn from the plan by the beginning of the relevant plan year. Under this method, the plan would review the list of all contributing employers (employers that had not withdrawn from the plan by the beginning of the relevant plan year), and include on Line 14 only those inactive participants who had no covered service with any of these employers.

Under the second proposed counting method, the reasonable approximation method, a plan that is unable to use the other two methods would make a reasonable, good faith effort to count inactive participants to satisfy the requirements of section 103(f)(2)(C) of ERISA. The plan would be required to provide an attachment that explains the plan's approximation method, including a description of the data and a breakdown describing the number of clearly identified inactive participants and the number of estimated inactive participants.

PBGC also is proposing that when a plan reports a number on line 14b or 14c that differs from the number it reported for the plan year immediately preceding the plan year, it would be required to submit an attachment with an explanation of the reason for the change.

Both attachments will provide PBGC with data information that it uses in its Pension Insurance Modeling System (PIMS). PBGC's evaluation of the data submitted in the attachments will allow PBGC to review the integrity of the data. PBGC estimates that the proposed changes would have an offsetting effect and would not change the hour or cost burden for the Schedule R.

PBGC estimates that it will receive approximately 24,800 Form 5500 and Form 5500-SF filings per year under this collection of information for the Form 5500 Series. PBGC further estimates that the total annual burden of this collection of information for the Form 5500 Series, attributable to PBGC, will be 1,200 hours and \$1,664,000.

PBGC is soliciting public comments to —

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodologies and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Issued in Washington, DC, by

Hilary Duke,
Assistant General Counsel for Regulatory Affairs,
Pension Benefit Guaranty Corporation.

[FR Doc. 2019-17341 Filed: 8/19/2019 8:45 am; Publication Date: 8/20/2019]